



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

MARCH 27, 2007

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Escobar, Lyle, Mueller

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe and Minutes Clerk Johnson.

Chair Benich called the meeting to order at 7:01 p.m., welcoming particularly the students, and inviting all present to join in the pledge of allegiance to the flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

With none present to address matters not appearing on the agenda, Chair Benich closed the public comment period.

MINUTES:

MARCH 13, 2007 COMMISSIONERS MUELLER/KOEPP-BAKER MOTIONED TO APPROVE THE MARCH 13, 2007 MINUTES WITH THE FOLLOWING REVISIONS:

Page 5, paragraph 3:

- concerns of ~~fire~~ petroleum **rated** fire suppression system (additional, special sprinkler system needed?)
- containment of spillage (oil storage barrels which ~~might become broken~~ **may create a large spill**) and
- training of personnel to handle such ~~problems~~ **a large scale event**

Page 8, paragraph 6, line 3: ... space **and only 1 tenant may be on the sign,**

Page 8, paragraph 6, line 4: ... sq ft **and all 3 tenants may be on the sign**

Page 10, paragraph 2, last line: be ~~versus something else~~ **too far.**

Page 10, paragraph 3: Commissioner Mueller continued to express the concern ~~regarding~~ **that for** parcels 'to be eligible' many present the problem of having only a small portion of land within the currently identified strip required, e.g., the way the Code is written it will be if the first ten-feet touches, then the entire 20 acres are eligible for having the signage. *"What that means," he said, "is that if the broadly drawn lines even touch a*

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property, then the whole property becomes available for signage placement – and that could include much more area for the signage than the City has been willing to consider.

Page 12, paragraph 3, lines 1 & 2: from *projects represented by: three projects: Jasper Park Don Lapidus, Craig Miott and John Telfer,*

Page 13, last paragraph, line 3: *also see; don't*

THE MOTION CARRIED (6-0-1-0) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: BENICH; ABSENT: NONE.

Commissioner Acevedo was excused at 7:05 p.m. for the next agenda item as he owns property in the Downtown Area, which might results in a potential for conflict of interest.

PUBLIC HEARING:

1) ZA-07-04: CITY OF MORGAN HILL- DOWNTOWN PARKING EXEMPTION Request for amendment to the Morgan Hill Municipal Code, Title 18, Section 18.50.027 extending the sunset date for the exemption for on-site parking requirements for commercial/office uses within the Downtown area.

PM Rowe gave the staff report, outlining the recommended changes [elimination of the on-site parking requirement for commercial use and elimination of the guest parking requirement for residential uses] in the parking requirements in order to stimulate development (2003 Downtown Plan). In the meantime, the Downtown Parking Management Plan was addressed intermittently, PM Rowe said, with emphasis placed on the Downtown Development Plan. In July, 2005, the City Council adopted amendments to the Parking Ordinance that allow for parking exemptions for Measure C allocations during two years subsequent competitions (inclusive of a 'sunset clause'). In November 2006, the Redevelopment Agency amended the Redevelopment Plan, with one of the goals being focus on projects needed for economic development, rehabilitation, and infrastructure, particularly in the downtown. PM Rowe additionally advised that in March, 2007, the City Council committed to spending a large sum on parking improvements, including developing land acquisition and new sites for construction. Further, PM Rowe said, Council members have authorized the City Manager to contract with a Planning Consultant to prepare an update to the Downtown Plan.

PM Rowe continued by telling the Commissioners of the residential allocations (for nine projects, totaling 363 units) which have been granted since the adoption of the temporary parking exemption. He also advised that last year, the Metropolitan Transportation Commission selected Morgan Hill as one of eight Bay Area cities to participate in a study of how to reform parking policies to support smart growth around transit hubs and town centers. A part of this study, PM Rowe said, has resulted in preliminary data being distributed which shows that overall parking demand has remained fairly stable. If the 'sunset clause' were to be extended for an additional two years, he said, there would be time enough for having the Downtown Parking Management Plan and the analysis of the Downtown Plan completed and document preparation without requiring staff to return to the Commissioners with interim information.

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Chair Benich commented he was pleased to see the City Council entertain the concept of underground parking for the Downtown area. Commissioner Lyle asked when the date for completion of the Parking Plan is anticipated to be? [May 2008] PM Rowe spoke on the work by the Consultants which will address the density issues primarily with an initial study prepared by May 2008. He added that this extension might be incompatible with any project parking code changes resulting from the downtown parking study just commencing. It is unlikely but a full EIR might be needed and therefore the project could be extended time wise, PM Rowe said.

Chair Benich opened the public hearing.

Rocke Garcia, 14500 Sycamore, reminded that he does have a project downtown: the Sunsweet property development. Mr. Garcia said he had been encouraged while working with Planning staff who are trying to be innovative in planning parking. Mr. Garcia said it appears that he will give up a couple of feet on his property and if the City relaxes the standards – as has been suggested - there will be angular parking with room for 2-way traffic at the site. Mr. Garcia also indicated that development of the Sunsweet property will be a ‘real key’ to downtown renovation. Mr. Garcia then spoke of the density along Depot Street, saying he continues discussions with the city

With no others present to speak to the matter, the public hearing was closed.

Commissioner Lyle said that when he first read the staff report, he got concerned that there were efforts at going beyond changing the parking requirements further. “We should look at this matter in the context needed: what is required and how guest parking will be managed after the completion of the downtown parking study,” Commissioner Lyle said.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF AN AMENDMENT TO THE MORGAN HILL MUNICIPAL CODE, TITLE 18, SECTION 18.50.027, EXTENDING THE SUNSET DATE FOR THE EXEMPTION FOR ON-SITE PARKING REQUIREMENTS FOR COMMERCIAL/OFFICE USES WITHIN THE DOWNTOWN AREA. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED THE MOTION CARRIED (6-0-0-1) BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.

Commissioner Acevedo returned to the meeting and was seated at 7:14 p.m.

2) AMENDMENT TO DEVELOPMENT SCHEDULES FOR MEASURE C PROJECTS

Requests to amend the residential development agreements for projects awarded a building allotment under the City’s Residential Development Control System. The development schedules under Exhibit B of the Development Agreements for the following applications will be amended to extend the filing deadlines as requested, and the each development schedule will be removed from Exhibit B and will be approved under separate Planning Commission Resolution.

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PM Rowe gave the staff report, and provided an overview of the policy allowing Development Schedules for Measure C projects to be approved by a Resolution of the Planning Commission. PM Rowe explained that the action this evening would remove Exhibit B Development Schedule and have the schedule readopted by Resolution. He detailed that the Development Agreement would still have an Exhibit B Development Schedule with a hard deadline for commencement of construction no later than June 30th of the fiscal year of the building allotment and other deadlines will continue to be monitored on a quarterly basis through the separate development schedule approved by the Planning Commission. With the change in policy, PM Rowe said, staff contacted all applicants with RDCA allotments to apply to transfer development dates for each of those projects from the Development Agreement document. Now, PM Rowe said, those applications combined into one 'batch' for a single hearing by the Planning Commission and City Council. The effectiveness of dealing with all of the applications at once is saving the City time and money, PM Rowe advised; consequently, Measure C developers have been offered a reduced filing fee to amend their project's development schedule, with twelve applicants accepting.

Recalling to the Commissioners, PM Rowe said that on March 13, 2007, a development schedule template that will apply to all Measure C projects beginning with the fiscal year 2008-09 building allotment was approved, with a reduction in the lead time for developers to obtain building permits and which will provide for a delay in the filing deadline for Site and Architectural approval until after the Tentative Map had been approved. "Some project requests to be heard at this meeting have already met the intermediate deadlines and are only requesting extensions on the deadline to obtain building permits and in some cases the June 30th deadline to commence construction. Staff determined that applying the recently approved "template" was not feasible with these applications and therefore recommends the Commission consider the amendments to each project's Development Schedule based on the applicant's requested changes. Most applicants provided a letter explaining the reasons for their project's delay and justification for the extensions of time being requested," PM Rowe said.

Turning to the potential for transfer of fiscal year building allotments, PM Rowe reminded that at the March 13 meeting, the Planning Commission also approved procedures for the transfer of fiscal year building allotments between projects. He said staff identified four projects that would like to trade their fiscal year 2008-09 or 2009-10 allotment for a fiscal year 2007-08 allotment:

- MC-04-13: Barrett –Odishoo
- MC-04-21: Barrett - Syncon Homes
- MC-04-12: E. Dunne - Dempsey (Jasper Park)
- MC-04-22: Jarvis - South County Developers

However, none of the remaining projects on tonight's agenda are proposing to move 07/08 allotments into 08/09 or 09/10. One of the four projects, South County Developers, has applied to amend that project's Development Schedule and a transfer of allotments could be accomplished as part of the amendment to its Development Agreement. PM Rowe said staff was recommending the Commission discuss with tonight's other applicants the possibility of trading the next fiscal year's allotment with one of the above projects, with the applicant keeping in mind

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that the trade might shut down production for a year or delay the start of construction of the following fiscal year allotment. He then explained how the fiscal year 2007-08 allotments in those projects would be replaced with the building allotment being requested for extension into next fiscal year. PM Rowe advised the Commissioners, "If it is determined that other projects under consideration are willing to transfer allotments, staff will advise applicants for the other three projects listed above to apply to amend their project's Development Agreement and Development Schedule to carry out the transfer at a later date."

PM Rowe further advised, "Staff has also identified projects with first year 2007-08 allotments that have yet to file any applications for entitlements:

- MC-04-04: Diana - Chan
- MC-05-12: Depot - The Granary

The Granary project (allocations can only go to another small vertical mixed use project), he said, may want to wait another year to take advantage of the higher density that may be allowed as part of Downtown Plan update.

PM Rowe emphasized, "If a transfer of fiscal year allotments is not possible with any of the current applications, the purpose of the current application requests will be to amend the project Development Schedules and to remove the Development Schedules for each project's Development Agreement."

The Commissioners addressed the following issues with staff:

- the issue of trades dealt with would be at the conclusion of item 2
- the potential of being 'long' 100 units in this fiscal year and 07-08, as well
- if 250 units are allocated annually, the shift of 100 units for downtown could have an impact on the development agreements
- market controls sales for all units

Disclosure: Commissioner Lyle said he had discussion with Mr. Oliver this date regarding various agenda items for this evening's meeting.

- a. **DEVELOPMENT SCHEDULE FOR MEASURE P APPLICATION,**
MP-03-04: COCHRANE-BORELLO: The applicant is requesting approval of a development schedule for a 15-unit single family residential development. A four-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (7 units).

Chair Benich opened the public hearing.

Dick Oliver, 385 Woodview Ave., #100, said he would be speaking to six of the requests before the Commissioners at this meeting. Mr. Oliver noted that Mr. Garcia had asked him to address agenda item 2 F, and he would do so.

Regarding 2a (Cochrane-Borello), Mr. Oliver asked for an extension to 05-30 07 for Pull Permits and Commence Construction to 10-30-07. "13 of the 15 units have the building permits issued and only one - at the request of the buyer - has changes to the street landscaping plan (along the street). So we will go back to the ARB for the meeting of April 4, 2007 if the meeting happens. We are asking for the extension for

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one unit and have worked on cleaning up the units we talked about two weeks ago,” Mr. Oliver said.

PM Rowe called attention to the Resolution for recommendation of approval with the following modification (4th Whereas) :

....~~48~~ 15 building allocations...

Commissioner Lyle noted the necessity of having the resolution regarding delay to schedule addressed.

With no others present to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-04-06: COCHRANE-BORELLO TO ALLOW FOR A FOUR MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT ‘B’ OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSION ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION DA-04-06: COCHRANE-BORELLO, WITH THE FOLLOWING MODIFICATION (4TH WHEREAS):

....~~48~~ 15 building allocations...

COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

- b. **DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-26: COCHRANE-MISSION RANCH:** The applicant is requesting approval of a development schedule for a 48-unit single -family residential development. A four-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (18 units).

Chair Benich opened the public hearing.

Mr. Oliver spoke to the agreement extension request, saying this will add an additional 15 units for 2009-2010 and have the pull building permit extended for Phase 9B of the development for 2006-2007 to 06-30-2007 and commence construction (18 units) to 10-30-2007, as well as having the building permit issuance on Phase 10 for 2007-2008 to 05-30-2008.

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The Commissioners discussed with Mr. Oliver the date difference in the two issues for the 15 units. Mr. Oliver said the road (including the cul-de-sac) for Phase 9B is in and so is not a problem. Mr. Oliver said he was asking for flexibility so he did not have to return to the Commission for permission for further work changes in this agreement. Mr. Oliver explained the difficulties and expense of pulling the final permit. "We would hate to have the permit just sit there and so we are requesting these changes," he said, emphasizing the request for start of construction for the 15 units to 06-30-2008

Commissioner Mueller asked if the project (Cochrane-Mission Ranch) will be finished up within the year? Mr. Oliver said, "We will start 2007-2008 earlier if possible. In the later phase we will be back on schedule." Mr. Oliver told of the delays with Phases 9a and 10b. "The sales have been going well. However, Phase 9B was delayed with our commitment to widen Peet Road which goes in front of the pumping plant. The land belongs to us but there have been difficulties to getting the right-of-way and now Santa Clara Valley Water District doesn't want to have the street widened. Scott Creer (SCE for Public Works) asked that the map not be recorded until the right of way issues are resolved. We will try to work it out," he said.

With no others present to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-01: COCHRANE-MISSION RANCH TO ALLOW FOR A FOUR MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT 'B' OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION, AND INCLUDING THE FOLLOWING MODIFICATION:

Commencement of Construction:

FY 2006-07 (18 units) 06-30-07 *10-30-07*

COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MP:04-26 COCHRANE-MISSION RANCH, WITH THE FOLLOWING MODIFICATION:

EXHIBIT "A"

V. BUILDING PERMITS

Obtain Building Permits

FY 2007-08 (1 units) ~~09-30-06~~ *05-30-07*

COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF

THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

- c. **DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-25: COCHRANE-LUPINE:** The applicant is requesting approval of a development schedule for 36 units (Phases 3b, 4 & 5) in an overall 92-unit single-family residential development. An extension of time is also requested for the Phase 3b, FY 2006-07 building allotments (18 units).

Chair Benich opened the public hearing.

Mr. Oliver spoke to the Commissioners, saying: "Since filing the application for the Development Agreement we have encountered additional delays, primarily relating to the final review and approval by SCVWD," Mr. Oliver explained. "That has resulted in delays of the commencement of the grading and street improvements for the project. Work has now progressed satisfactorily to permit us to pull all the permits for Phase 3A, and all the units in Phase 3A will be under construction prior to the June 30, 2007 deadline. However, the lender will not permit us to pull any permits and commence construction on the Phase 3B units until at least half of the units in Phase 3A have been commenced."

Continuing, Mr. Oliver said, "Given the general slow down in the market, we must conservatively estimate that the construction may not be able to commence on all the 18 units in Phase 3B until late this summer. All the street and pad development for Phase 3B has been done with Phase 3 A, so that we will be able to commence construction of the homes as soon as market conditions allow and lender approval is obtained. The Building Permit issuance dates, if not covered by "soft date changes matrix" should also be extended for Phases 4 and 5." Mr. Oliver added, "We are requesting that the Issuance of Permits for Phase 3B be extended to 10/30/07, and Commencement of construction for Phase 3 B to be extended to 10/30/07. We would like Building Permit Issuance for Phase 4 to be extended to 4/30/08 and Building Permit Issuance for Phase 5 to be extended to 4/30/09."

Chair Benich discussed with Mr. Oliver the potential for starting the units earlier. Mr. Oliver said there was no problem with starting earlier, except that to record the map significant fees were involved. "So when it comes to the building permit fees, we don't do those until just before we start construction," he said. Chair Benich continued, asking if a rainy season might be a problem? "No," Mr. Oliver said. "All the road improvements are done and the utilities. It only takes a day to pour foundations." He noted that this request also involved asking for an extension on pulling permits.

Commissioner Lyle asked for clarification about the lender not up-fronting money until at least half the units were under contract, which Mr. Oliver explained. He also stressed that there was not a problem with starting all 18 units this year. "Phase 3A will sell within the next couple of months," Mr. Oliver said.

With no others present to speak to the matter, the public hearing was closed.

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COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-02: COCHRANE-LUPINE, TO ALLOW FOR A FOUR MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT 'B' OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION, AND WITH THE FOLLOWING MODIFICATION:

Issuance of Permits for Phase 3B be extended to 10/30/07, *and*

- Commencement of construction for Phase 3 B to be extended to 10/30/07
- Building Permit Issuance for Phase 4 to be extended to 4/30/08
- *and* Building Permit Issuance for Phase 5 to be extended to 4/30/09

COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-04-25: COCHRANE-LUPINE COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

- d. **DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-19: E. MAIN-MARRAD/SAN SAVIGNO:** The applicant is requesting approval *of a* development schedule for a 26-unit single-family residential development. A four-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (13 units) and a two-month extension of time is also requested for the Fiscal Years 2007-08 (5 units) *and* 2008-09 (8 units) building allotments.

Chair Benich opened the public hearing.

Mr. Oliver said his request includes four specific areas of amendment which he had referenced in a letter to the Commissioners:

1. Add an additional 8 units for Fiscal Year 2009-10
2. Amend the Time Schedule set forth in Exhibit B
3. Modify the provisions for Public Works Off-Site Commitments
4. Modify TDC Requirement

Item 1. **Add an additional 8 units for Fiscal Year 2009-10**

On August 9, 2006, we were notified that the San Savigno Project received an

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additional eight allotments for the Fiscal year 2009-10. We previously received 26 allocations in prior years for a total of 34 allocations. There was one replacement unit, so the total San Savigno Project is now 35 lots fully allotted. We need to amend the existing Development Agreement, DA 04-05, to add these additional eight units to the Development Agreement. Due to delays in the processing, obtaining approvals for off-site dedications, a change in architects, and in the developer (we purchased the Project from the original applicant, having closed escrow on the land in August of 2006), we are also requesting some modifications in the time frames set forth in Exhibit B to the Development Agreement.

There is concern, too, regarding possible delays due to the declining real estate market and loan constraints; therefore, we request additional extensions of time so that we do not have to come back and request another amendment to the Development Agreement. Furthermore, we are asking that the Development Agreement be amended with a provision that the Staff, with Community Development Director approval, be given the discretion to modify the "soft deadlines" set forth in Exhibit B to the Development Agreement.

Item 2. Specific Date Change Request Changed On Exhibit B:

III. Final Map Submittal*

2006-07 (13 units)	02-28-07	05-31-07
2007-08 (5 units)	10-31-07	
2008-09 (8 units)	10-31-08	
2009-10 (8 units)	new	

IV. Building Permit Submittal*

2006-07 (13 units)	04-01-07	05-31-07
2007-08 (5 units)	01-31-08	03-31-08
2008-09 (8 units)	01-31-09	03-31-09
2009-10 (8 units)	new	03-31-10

V. Building Permit Issuance*

2006-07 (13 units)	05-31-07	07-31-07
2007-08 (5 units)	03-31-08	05-31-08
2008-09 (8 units)	03-31-09	05-31-09
2009-10 (8 units)	new	05-31-10

VI. Commencement of Construction**

2006-07 (13 units)	06-30-07	10-31-07
2007-08 (5 units)	04-30-08	06-30-08
2008-09 (8 units)	04-30-09	06-30-09
2090-10 (8 units)	new	06-30-10

*These are "soft dates"; we request that the Community Development Director be given, in the Development Agreement Amendment, the discretion to modify these dates upon appropriate showing to the satisfaction of the Director.

**The Commencement of Construction is a "hard date" and any change would require a future amendment to the development agreement. An application for such an amendment must be filed within the 30-day cure period after written notice, and if

not filed, then such allocations shall be lost.

Item 3. Modify the Public Works (Circulation Efficiency and Livable Communities) Off-site Commitments.

- a. The Development Agreement should be clarified to show that the per unit commitments in the various categories should be based on a total of 34 units, not 35, since one unit in the Project replaces the existing home that is to be demolished.
- b. Page 6, Item (j)(iii) is followed by four (4) bullet obligations. The cost for these four obligations could exceed \$200,000 and would be well over the total required expenditure \$149,600 (34 x \$4,400). The Live Oak Path has been committed by at least one other developer- perhaps more. We would like the flexibility to work with Public Works and limit the dollar obligation to the \$149,000.
- c. Page 11, Item (n) Circulation, the commitment is for \$4,485/unit which is twice the Measure C requirement of \$2,200 per unit.
- d. Page 14, Item (iii). Clarify that any excess costs over the \$1100 per unit for the walk way to Live Oak High School can be met from the \$3,300 per unit School Safe Walking Route commitment.

The request is contingent on the total dollar commitment required by Measure C for the above items is \$11,000 per unit (including school safety walk, Public Works [without the Capital Improvement Fund or the Off-site Sewer Fund], which would be in addition in any event) times 34 units, for a total dollar obligation of \$374,000 for the 34 units in the Project. We further request the Development Agreement contain provision that excess funds above the \$11,000 be applied against other projects we have for off-site obligations in those projects.

Item 4. Modify TDC Commitment TDC fees should only be collected on 34 units, not 35, since one unit replaced the exiting home which will be demolished. This changes the requirement from 1.4 TDC to 1.36 TDC.

Mr. Oliver told of the amenities planned for Phase 3 with resultant fees to the HOA noting improvements planned for Phase 4, with the common area having been completed in Phase 1

Mr. Oliver noted the difficulty of the issues, particularly the request to modify the Public Works (Circulation Efficiency and Livable Communities) Off-Site Commitments:

In the Development Agreement there is language which sets forth obligations for circulation and Public Works which add up to substantially more than \$11,000 for each unit. He said it appeared that the original developer, in his excitement of being considered for allocations, got more points by agreeing to pay more than the \$11,000 – which includes \$4,400 for Public Works, \$2,200 for Circulation, \$1,100 for Livable Communities, and \$3,300 for Safe Parks and Pathways. Mr. Oliver went on to detail the commitments which the City Council ‘went along with for the next Phase’. Mr. Oliver told the Commissioners of the commitment to improve Wright and Hale Avenue, which has ‘taken three years, with the costs escalating each year’. “I know there is work to be done and I am requesting if the fees are in excess, I could be permitted to apply them to another project,” Mr. Oliver asked. He continued by saying that in the Schools Category \$3,300 per unit was committed for

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safe walking routes to the Schools but that he had never been given a list of projects to do. Mr. Oliver asked to have Planning staff 'move the fees about but keep tabs on the developer to ensure the commitments are met'. "I'm asking you to bring the two numbers in sync," he said. Continuing, Mr. Oliver said a concern was that several developers have been asked to commit to a specific project for the Schools: a path over the bridge. "Who is ultimately responsible for that one thing, and what do the other developers do?" he asked.

Chair Benich said he thought the Schools Board did send letters; Mr. Oliver responded that there had not been a list of projects from the Schools.

Commissioner Escobar asked, "In regard to the request of flexibility of funds for specific cost, but which were not used, is there precedence for this?" [No]

PM Rowe advised that in conjunction with SCE Creer, he has confirmed what Mr. Oliver said, and the Subcommittee will be taking up the matter with the School District. SCE Creer intends helping the School District identify projects. The subcommittee, PM Rowe said, is expected to make specific recommendations on the matter.

Mr. Oliver commented that he had had discussions and made commitments. "However, we have not spent the money, but we intend to use the money to do a specific part of the project," he said.

The Commissioners discussed the following:

- in favor of flexibility, but this project committed \$2500 more per unit than should have
- criteria for Schools; what Planning Commission can/can't do in this area
- different improvements
- as restrictions are set now, can't do work under \$4,400 for Public Works
- not double credit when two developers opt for same improvement or have credit for Public Works and also count for Schools

Chair Benich asked for clarification of the additional eight units, which PM Rowe and Mr. Oliver provided.

Commissioner Acevedo clarified that Mr. Oliver has indicated that \$4,400 per unit was committed for Public Works.

Mr. Oliver spoke on the project's consistency with the Circulation element.

With no others present to speak to the matter, the public hearing was closed.

Commissioner Escobar suggested that the Commissioners address the request for flexibility, with the following being discussed:

- original developer committed beyond what was required (committed dollar amounts in excess)
- the request ties in with other details of the project
- an understanding this matter is not applicable to just this item, but if there are excess funds or some other developer paid for project, could flexibility

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be permitted

- need to spent dollar limit versus what a category actually costs
- alludes to flexibility so averages out *to* get all money spent, but if commit more than what the criteria requires, then average out (Mr. Oliver said)
- in this case previous applicant committed over and above requirements
- Engineering estimate divided by the total number of units in an isolated project could result in an overburden
- can dollar amount be dropped
- individual developer made commitment
- developer commitment to downtown project for art very large - did City Council allow reduction of dollar amount actually spent (PM Rowe clarified that in early hearings the amount was much lower in that project; rather than increase the money, a higher amount was not acknowledged, as it was not in the application when first presented)
- other projects where there are costs less, a credit may be made with money taken from another area of the project to make up difference
- concern that the commitments not be 'passed off'
- as to the commitment to build the street – is that commitment being modified (unknown – it is a Public Works issue)

Chair Benich was requested to reopen the public hearing.

Mr. Oliver explained 'the way Measure C works': say the obligation of \$4,400 is for a street; if we actually do the street for \$2,200, then we are still obligated to spend \$2,200 to another 'pot'. He indicated a commitment to widen East Main Street.

Commissioner Lyle clarified Mr. Oliver agreed to install street improvements at \$2,200, but no more than \$4,485.

Commissioner Mueller said what he heard was: the street will be widened to the extent the developer can get the right-of-way. Mr. Oliver said, "Yes, and *if* we go over the committed amount, then the excess should come from the Schools category. PM Rowe commented, "We will be getting the improvements committed by the project developer."

Discussion ensued on how to have spending set to get the maximum return for the City.

Commissioner Lyle said, "If a developer commits to \$4,485, and the actual amount of expenditure is \$6,000, the developer is not 'on the hook' for the extra amount." He continued "I'm OK with flexibility being implemented for multiple projects, but if it is a stand alone, asking for a description is so important."

With no others present to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-04: E. MAIN-MARRAD/SAN SAVIGNO, WITH THE FOLLOWING MODIFICATIONS:

- Page 6, Item (i)(iii) **35 34**

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- Page 6, Item (j)(iii)... *a maximum cost of \$4,400 per allocated unit*
- Page 8, paragraph 14 (k)(iv)
- Page 14, Paragraph 14 (iii)
 - Any excess costs over the \$1,100 per unit for the walkway to Live Oak High School can be from the \$3,300 per unit school safe Walking Route commitment.

AND TO ALLOW FOR A FOUR MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE FOR FY 2006-07 AND A TWO-MONTH EXTENSION FOR FY'S 2007-08 AND 2008-09. ADDITIONALLY, IT WAS ALSO RECOMMENDED (THAT): THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT 'B' OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS.

Commissioner Acevedo said that he agreed with Commissioner Lyle: the \$2,200 commitment per unit was made and is expected to be adhered to, but that the developer not be required to spend more than \$4,485 (maximum). "So if it costs \$6,000 he should not be on the hook for more than originally committed," Commissioner Acevedo said.

THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDED DEVELOPMENT SCHEDULE FOR APPLICATION MP 04-19: E MAIN-THRUST/MARRAD:

- a 3-month extension of the Final Map Submittal dates for FY 2006-07;
- a 2-month extension of Building Permit Submittal date for FY 2006-07;
- a 2-month extension of Building Permit Submittal date for FY 2007-08 & 2008-09;
- a 2-month extension of the Obtain Building Permit date for FY 2006-07, 2007-08 & 2008-09;
- incorporation of FY 2009-10 allocations into the development schedule;

COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

PM Rowe reiterated that SCE Creer will attend subcommittee meetings, as will representatives of the School District. "We expect recommendations regarding these amendments for projects such as this," he said, "with direction to the schools to provide better accounting (give a task list) for this and other projects." Commissioner Mueller commented it is important to get projects built and to identify where the dollars spent come from, too.

- e. **DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-27: WRIGHT-MANANA:** The applicant is requesting approval of a development schedule for a 15-unit single-family attached residential development. A four-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (7 units).

Chair Benich opened the public hearing.

Mr. Oliver told the Commissioners the delay is due to unresolved issues with the SCVWD. Mr. Oliver detailed the channel for Llagas Creek is the issue here, and is consistent with solving flood problems with a long range plan. "We request a six month extension for pulling the 06/07 permits to September 30, 2007," he said.

With no others present to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-07: WRIGHT-MANANA, TO ALLOW FOR A NINE MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT 'B' OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. [The nine-month extension (per staff exhibit) was only for the 2006/07 allocations.] COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MP 04-27: WRIGHT-DIVIDEND. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

- f. **DEVELOPMENT SCHEDULE FOR MEASURE P APPLICATION, MP-02-03: TILTON-GLENROCK:** The applicant is requesting approval of a development schedule for an 81-unit single –family multi-family residential development.

Commissioner Lyle was excused at 8:37 p.m. for the next agenda item due to the potential for conflict of interest as he lives in the area.

Chair Benich opened the public hearing.

Mr. Oliver said Mr. Garcia had asked him to speak to the issue as he explained that Mr. Garcia was planning to complete the improvements prior to recordation of the

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map and after the project was accepted by the City. Mr. Oliver explained that the delay was due to impediments in the issuance of building permits and an extension to 9-30-2007 was being requested. Mr. Oliver noted that other dates dealing with the start of construction had already been approved with Mr. Garcia intending to pull permits by 9-30-2007.

Chair Benich asked clarification for Phase 4 (the last 12 units), noting the 'pull building permits' was very close to commence construction. Commissioner Acevedo noted the Commissioners had received two letters with different dates: "Which does Mr. Garcia want?" he asked. Mr. Oliver referenced Exhibit A as having the correct dates for pulling permits.

With no others present to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-04-08: TILTON-GLENROCK, TO ALLOW FOR THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT 'A' OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: LYLE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDED DEVELOPMENT SCHEDULE FOR BUILDING ALLOCATIONS FY 2005-06 THROUGH FY 2008-09 AWARDED TO APPLICATION MP-02-03: TILTON-GLENROCK. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: LYLE.

Commissioner Lyle returned to the meeting at 8:43 p.m. and was seated with the Commissioners on the dais.

- g. DEVELOPMENT SCHEDULE FOR MEASURE P APPLICATION, MMP-03-01:NATIVE DANCER-QUAIL MEADOWS:** The applicant is requesting approval of a development schedule for a six-unit, custom single-family residential development. A one-year extension of time is also requested for two of the four custom lots.

Chair Benich opened the public hearing.

Scott Schilling told the Commissioners that Quail Meadows is a development of six custom lots on one acre, three of which are completed or under construction with another lot sold. "We'll be starting in couple of months so we are asking for the

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remaining two lots to be granted an extension for one year. Those lots will be sold as custom to be built,” he said.

With no others present to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-03-09: NATIVE DANCER – QUAIL MEADOWS, TO ALLOW FOR A ONE-YEAR EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT ‘B’ OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MMP-03-01: NATIVE DANCER – QUAIL MEADOWS, WITH A ONE-YEAR EXTENSION OF TIME. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

h. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-04-22: JARVIS-SOUTH VALLEY DEVELOPERS/MADRONE PLAZA:

The applicant is requesting approval of a development schedule for a 78-unit multi-family residential development. A six-month extension of time is also requested for the Fiscal Year 2006-07 building allotments (36 units).

Chair Benich opened the public hearing.

Scott Schilling, 16060 Caputo Dr. #160, addressed the Commissioners regarding the request for six-months’ extensions;

36 allocations in the years 2006-07**

13 allocations in 2007-08**

15 allocations in ~~2009-10~~ 2008-09

moving 14 ~~these~~ allocations from 2009-10 to 2008-09

Mr. Schilling gave information regarding updated commence construction dates to ~~April 2007~~ December 31, 2007 for the 06/07 allotments, and October 30, 2008 for the 07/08 allotments, explaining that it ‘has taken an extensive amount of time for the Jarvis Drive design/ redesign and the Monterey Road/Cochrane Circle traffic signal consumed a lot of time’.

***Only these allocations were being requested extensions*

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Chair Benich clarified the intent to have Phase 2 commence construction to March 30, 2008.

Responding to a question from Commissioner Lyle, Mr. Schilling said building permit(s) submittal was completed for all 78 units. "I really just need a change in the 'commence construction'," he said. Commissioner Lyle asked if Mr. Schilling would be interested in getting transfer units? Mr. Schilling called attention that he was requesting to have the 15 units for 2009-10 moved up to 2008-09. Commissioner Lyle asked, "Then you are not looking for more units?" Mr. Schilling clarified that he would not be interested at the present time. Commissioner Lyle asked a projected time for completion of Jarvis Drive? [April, 2008]

With no others present to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-13: JARVIS – SOUTH VALLEY DEVELOPERS, TO ALLOW FOR A SIX-MONTH EXTENSION OF THE COMMENCE CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT 'B' OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MP-04-22: JARVIS – SOUTH VALLEY DEVELOPERS. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

- i. **DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MC-05-02: JARVIS-SOUTH COUNTY HOUSING/MADRONE PLAZA:** The applicant is requesting approval of a development schedule for a 95-unit multi-family residential development. A six-month extension of time is also requested.

Chair Benich opened the public hearing.

Nancy Wright, 9015 Murray Ave., Gilroy, said this request was shadowing Mr. Schilling's request. "We feel the need for flexibility for Jarvis Drive completion," she said.

Commissioner Lyle said, "In Mr. Schilling's case, he was moving commence construction dates, and it appears that the Jarvis completion is on target, so why this

request?” Ms. Wright agreed that South County Housing personnel expects to meet the deadlines (October 2008), then spoke on the market rate/market conditions which might affect sales/occupancy in the project.

With no others present to speak to the matter, the public hearing was closed.

Commissioner Lyle commented, “South County Housing, as with any affordable housing, has more problems getting started. I agree with the need for flexibility, but am concerned about pushing units out as far as possible.”

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-06-03: JARVIS – SOUTH COUNTY HOUSING, TO ALLOW FOR A SIX-MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT ‘B’ OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MP-05-02: JARVIS – SOUTH COUNTY HOUSING. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

- j. **DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MMC-04-07: GINGER-CUSTOM ONE:** The applicant is requesting approval of a development schedule for a five-unit single-family residential development. An eight-month extension of time is also requested.

Chair Benich opened the public hearing.

Gary Walton, PO Box 1265, said he was present to give an update from the last time he spoke to the Commissioners. “At that time, I was dealing with ‘improve plans or submitting building plans’ and I had received a variety of plans from the Engineer. Now we are prepared to submit for a plan check,” Mr. Walton informed.

Commissioner Lyle commented that February 29, 2008 seems a strange date to pick for commence construction. Mr. Walton laughingly said that February 29 is his wife’s birthday, and so it seemed appropriate. “We probably will move much sooner through the building plans and we’re prepared, with just plugging in numbers as soon as we have approval of the project and think we will be fully finished before 2010 in actuality,” Mr. Walton said. “We could submit the building plans this

week.”

With no others present to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-06: GINGER – CUSTOM ONE, TO ALLOW FOR A EIGHT-MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT ‘B’ OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MMC-04-07: GINGER – CUSTOM ONE. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

- k. **DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MMC-04-06: SAN PEDRO-AHMADI:** The applicant is requesting approval of a development schedule for a 3-unit, multi-family residential development.

Chair Benich opened the public hearing.

With none present to speak to the matter, the public hearing was closed.

It was noted that a letter had been received from the applicant with details of the delay, including difficulty in obtaining a new parcel number for the new lot. Mr. Ahmadi explained that he has been working with his Engineer and Public Works.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-12: SAN PEDRO – AHMADI, TO ALLOW FOR A TWO-MONTH EXTENSION OF THE COMMENCEMENT OF CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT ‘B’ OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN:

NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MMC: 04-06: SAN PEDRO - AHMADI. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

- I. DEVELOPMENT SCHEDULE FOR MEASURE C APPLICATION, MMC-04-05: DEL MONTE-GIOVANNI: The applicant is requesting approval to amend the development schedule for a six-unit multi-family residential development. A six-month extension of time is also requested.

Chair Benich opened the public hearing.

Commissioner Lyle asked why the applicant was asking for the extension as no correspondence had been received. PM Rowe assured that the applicant had been informed of the need to justify (up to) a 6-month extension but the Planning Department had received no response.

The Commissioners discussed with PM Rowe the following:

- 'how far along' this development was
- plans had been approved
- deadlines for final map due had not been met
- project was in default with missed deadlines
- whether an extension should be given for 'processing purposes'
- final map not submitted

With no one present to speak to the matter, the public hearing was closed.

Commissioner Mueller spoke on concerns of presenting justification to the City Council (the requests are scheduled for hearing by the Council on April 18, 2007), as no public record was available since the applicant did not respond.

Commissioner Acevedo pointed out that a requirement for asking for an extension was 'no fault of developer' and that can't be justified or verified as no letter had been received. "I suggest no date change," Commissioner Acevedo announced. PM Rowe said the offer of a six-month extension had been made, but the Commissioners could do a 3 - 4 month extension rather than a 6-month. Commissioner Lyle said he was 'thinking aloud' as he said, "We could do this contingent on staff getting information from the applicant."

Commissioner Mueller asked about separating this one out? We could have this held as there appears to be a problem sending this request to the City Council without justification. He reminded that the applicant could go to the City Council and plead his case as he had not provided justification for the extension.

Commissioner Escobar pointed out that the missed date as cause for concern.

Commissioner Acevedo stressed that he felt strongly there was nothing to justify an extension.

Commissioner Koepp-Baker commented that there appeared to be no compliance at all.

Discussion continued regarding the matter, with a general consensus that because the applicant had not responded, recommending the extension would be difficult.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-05-09: DEL MONTE - GIOVANNI RETAINING THE CURRENT COMMENCEMENT OF CONSTRUCTION DATE AND THE TRANSFER OF DEVELOPMENT AGREEMENT PERFORMANCE DATES OUT OF EXHIBIT 'B' OF THE DEVELOPMENT AGREEMENT AND INTO A SEPARATE RESOLUTION. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MMC-04-05: DEL MONTE – GIOVANNI WITHOUT CHANGES IN THE CURRENT DATES AS JUSTIFICATION WAS NOT PROVIDED TO THE COMMISSIONERS. COMMISSIONER ESCOBAR SECONDED THE MOTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS.

Prior to a vote, Commissioner Acevedo stressed the changes to the resolutions, emphasizing the six months agreed to for other requests was not agreed for this application.

THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

The Commissioners noted that discussion was in order regarding the proposed (voluntary, per year) allocation transfer. Issues discussed were:

- no developers have been identified who have expressed interest in trading/transferring allocations into later years
- some developers have indicated interest in receiving trades/transfers in order to begin their projects early
- a 'prime candidate' for giving up units into earlier years in a transfer would be the Diana-Chan project
- Depot Granary would be a target for transfer into the later year, but is restricted to a type of trade

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Chair Benich opened the public hearing.

Maureen Upton, 8339 Church, #209, Gilroy, discussed with the Commissioners regarding the potential of the Diana-Chan project and an awareness of the following:

- there was a question if the project (Diana-Chan) actually had units to trade, as the owner was in negotiations for a potential sale or joint venture with a developer
- there were projects who could accept units: Odishoo and Snycon (with Syncon being able to accept the units in 2007-08; they are currently able to file applications a year and a half early)
- Syncon might be a better candidate for receiving units, but would have difficulty doing so before 2009; they are in position to have 13 units in 2008-09

Ms. Upton stressed that part of questioning was where Diana-Chan is: the owners put the project on the market, and have received several offers, and are currently in negotiations for sale. She said representatives of Diana-Chan had met with staff in October, 2006 regarding the tentative map (with minor changes presented). "The tentative map will not be submitted until we have a developer on board," Ms. Upton said. "The market has seen severe changes so because the allocations are for 2007-08, 2008-09, and 2009-10, it has become more difficult to get developer on board and it just took a lot of time. We really want to move the project along and we have until June 30, 2008 to commence construction. We understand we could ask for an extension. I talked to Engineer Bill McClintock, have estimate for an EIR, and have been checking with the City. But we really don't know yet and even with making a 'good educated decision'; if trading units, I can't commit."

Considerable discussion ensued regarding potential start dates for the Diana-Chan project with Ms. Upton repeatedly referring to the negotiations with a developer or purchaser. She did acknowledge thinking that if the project were started in fall, 2007, occupancy might be possible by summer of 2008.

Commissioner Lyle noted if the Diana-Chan project representatives were interested in investigating a trade, staff could be directed to determine if the project could get started this fall and then establish a credible schedule.

Ms. Upton asked, "In a trade who determines what the elements of the trade are: who gets the units and who determines where they are taken from?" Commissioner Lyle explained the process has not been completed before. PM Rowe reminded that the Planning Commission said:

- transfers would not apply to the current year
- receiving must be completed by a June 30 deadline
- transfer units can't be sold
- the transfer process applies to both partially and fully allocated projects
- a vesting map is required
- once the projects are given, they belong to the developer

With no others present to speak to the matter, the public hearing was closed.

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Discussion followed with the major points being:

- direction to staff is needed for having staff talk to the developers
- it must be clearly identified as to which projects can absolutely accept units
- it must be clearly identified as to which projects would volunteer units for transfer
- there might not be ability for trade
- staff could be asked to evaluate moving projects
- an advantage would be: finishing one project one year early

3) MEASURE F POLICY RECOMMENDATION/ REVIEW PLANNING COMMISSION SUBCOMMITTEE WORK PLAN

PM Rowe advised that letters had been sent to all developers who allocations had granted indicating that the Planning Commission wanted to investigate the possibilities of transfer; positive responses had not been returned.

The Commissioners identified and reiterated other issues:

- burden of proof for a reasonable trade to meet completion date(s) is the responsibility of the developers
- trades are not to be forced as that could potentially damage projects
- possibility of having developer on board immediately (earlier start)
- shorter schedule ought to be good deal
- once a trade is done, there may be reluctance to reciprocate
- if asking developer to start in the fall, what point would there be in trading if the developer would have to ask for an extension (Commissioner Lyle remarked that ideally the developer should be able to start the project within the current year)

Commissioner Lyle stated that he strongly believed that this project cannot possibly complete its 07/08 units earlier than what would be allowed under a 08/09 schedule. Therefore, this project was an excellent candidate for moving its 07/08 allotments into 08/09.

Commissioner Acevedo asked if there was need to ask again if anyone was interested in a trade?

The need for action was left in limbo as there has been little interest in giving up units for trade, while there is interest in receiving units.

A request to recommend approval of a policy to implement Measure F, the Downtown Building Allotment Set-aside approved by the voters in November 2006. Review the Planning Commission's Subcommittee Work Plan on amendments to the Residential Development Control System.

PM Rowe gave the staff report, stating that with the November approval of Measure F by the voters, 100 units were set aside for the Downtown area and developers of these units were provided the ability to start and complete the units earlier than the allotted years. There also exists, he said, additionally the possibility of trading fiscal years for already allocated projects to start sooner. The City Council may establish scoring and awarding procedures. If there is not a competition then a minimum score award system would be established.

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PM Rowe detailed the work of the Subcommittee on this issue:

- competition or none
- possible distribution of scores under the competition and no competition scenarios
- with no competition achieving the minimum score is sufficient to be eligible for an allotment (time and date application received first in gets allocations)
- beginning filing date determined by City Council
- regarding competition: staff scoring to Planning Commission for decision making; units allocated / awarded (like now) until reach maximum number of units

Commissioner Acevedo was excused at 9:35 p.m. due to the potential for conflict of interest with this agenda item, as he has property in the downtown area.

Discussion ensued regarding:

- opportunity for projects to receive allocations
- updated Downtown Plan may result in increased residential density (40+ units per acre)
- some of the project could benefit and have increased units, but the total number of units is limited
- possible recommendation to award supplemental allocation
- consensus of Subcommittee: approve allotments by competition
- Subcommittee members felt strongly that a competition would yield better quality projects *for already awarded downtown projects*
- one of problems: projects 'going for' only minimum scores; therefore it might be possible for lower scoring applications to be awarded over higher scoring ones because 'first in line' would be successful
- Subcommittee recommendation for ~~a two-part competition~~ *two competitions separated by a minimum of 6 months in time*
- Subcommittee to report back on any changes in work plan

Chair Benich opened the public hearing.

Rocke Garcia advised the Commissioners that the Sunsweet project would be able to move 'soon'. "We are working closely with an architect from Southern California and the main issue now is parking. Basically from a sales standpoint, it is important to have parking for each unit. If we are able to increase the density on Depot Street, we need to make sure parking is adequate. It is also important because the Downtown may need help in pushing it along," Mr. Garcia said. He continued by speaking on the 'podium' parking concept with 'underground parking automatic'. Mr. Garcia said that all parking - except for the public parking lot between his location and Monterey Road - will be below street level.

With no others present to speak to the matter, the public hearing was closed.

Chair Benich commented that having read the report, he agreed with the Subcommittee and thought a better project could be gained with competition.

Commissioner Davenport, a member of the subcommittee, informed that there had

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also been considerable discussion that if all the units (100) were not requested in one year, what could be done to encourage the downtown being built up?

Commissioner Mueller commented that having a two-segment competition might result in problems, and suggested that moving to a second could see only partial allocation of units for the Downtown. "We want to allocate all 100 in first competition, if possible," he said.

Commissioner Lyle said if the scoring resulting in award of up to 50 units in the first phase of a competition, there may not be need to give out other allocations.

The Commissioners further discussed:

- scores over the minimum
- City Council may want to give all 100
- no obligation by Planning Commission to go above 50
- minimum density bothersome (Commissioner Mueller: concern of exact minimum)
- scoring criteria explanation
- concern of height limits and parking (limit: 60' in height/ continued limitation on guest parking)
- current density 18 per acre, but if higher density downtown

Commissioner Lyle informed that the Subcommittee also recommending delaying competitions until the new downtown plan is completed and the issues of parking requirements, building heights, residential densities, etc. are changed.

PM Rowe explained that the areas that require mixed use: ground floor retail/commercial; other levels, residential.

Commissioner Lyle recalled that the Subcommittee continues working on the criteria to address many of the issues.

Commissioner Escobar commended the Subcommittee for having 'something before us', but expressed concern that all the issues were not addressed.

Chair Benich said, "Yes, this is the flexibility needed."

PM Rowe stated the developers are looking for flexibility from the Planning Commission Subcommittee.

Commissioner Lyle left the dais at 9:50 p.m. to speak with Ms. Upton.

PM Rowe suggested it might be well to hold off on a competition until the other items (heights, parking) could be addressed. He said that with the standards set, the process is anticipated to begin happening.

Commissioner Koepp-Baker said the Subcommittee is putting some cautions in place for things that may not work in the end.

Commissioner Mueller asked when the competition for the first 100 units is

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anticipated?

PM Rowe told of the Planning Commission Subcommittee meetings with the City Council Subcommittee, suggesting that the competition may be reserved until after the planning is completed/

Commissioner Lyle returned at 9:52 p.m. and regained his seat.

PM Rowe said the Planning Commission can make recommendation to say the Downtown Plan is necessary for inclusion of the competition and award of the units.

Commissioner Koepp-Baker said it would be better to 'hold off until all the attributes are in place'.

Commissioner Lyle stressed, "We don't want to say in the future that 'the Downtown is built but it is wrong'."

PM Rowe commented that the Subcommittee works on a continuous process until some allocations are set for award. Commissioner Mueller said, "The allocations should not be touched until we know what we will do."

Commissioner Davenport reminded of the Subcommittee recommendation to have a competition for the 100 units.

Commissioner Mueller reiterated that no competition should be considered until all the plans for scoring and award are in place.

COMMISSIONER DAVENPORT OFFERED A RESOLUTION TO ACCEPT THE SUBCOMMITTEE RECOMMENDATION FOR SETTING A COMPETITION FOR AWARD OF THE 100 UNITS SET-ASIDE FOR DOWNTOWN. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION, NOTING THE INTENT TO SET POLICIES PROCEDURES FOR THE COMPETITION. THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.

Commissioner Lyle suggested it is important to note that the City will not be setting the competition dates until parking, heights, etc., are known.

Chair Benich was requested to reopen the public hearing.

Mr. Garcia advised the Commissioners that he has concerns about having an allocated project which may be affected by the #3 item concerning construction of 15 units or less and the potential of finishing those projects.

Commissioner Mueller said Mr. Garcia's project would not eligible as it contains more than 25 units.

PM Rowe clarified that the City Attorney says Measure F limits projects Downtown

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to those less than 25 units in size.

Commissioner Lyle noted that if a developer wants more units, there may be a mechanism to do so; there may be other ways and those should be investigated.

Commissioner Koepp-Baker said that this would be an opportunity to look at Sunsweet – and how potentially it could have more units, not less.

With no one else to speak to the matter, the public hearing was closed.

Discussion followed concerning a possible recommendation to the City Council to wait for setting a date for the competition until the matters/concerns raised in this meeting reached resolution.

PM Rowe advised that to clarify the matter and intent, the Commissioners could add Section 6 to the resolution with the language for modification.

COMMISSIONER DAVENPORT MOTIONED TO RECALL THE RESOLUTION, AND SUBSEQUENTLY ADD SECTION 6: RECOMMENDING THAT THE DATES FOR THE DOWNTOWN SET-ASIDE FOR 100 UNITS BE DELAYED UNTIL THE ISSUES RAISED IN THIS MEETING ARE RESOLVED. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION WHICH PASSED (6-0-0-1) BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.

PM Rowe noted that parking density issues give the potential to raise buildings another story and while that might be ideal, it can't be done downtown at the present time.

COMMISSIONER KOEPP-BAKER MOTIONED TO COMMUNICATE TO THE SUBCOMMITTEES OF BOTH THE PLANNING COMMISSION AND THE CITY COUNCIL THAT THE POTENTIAL INCREASES IN HEIGHTS OF THE BUILDINGS WERE CLOSELY LINKED TO PARKING SPACE ISSUES, AND FURTHER THAT ISSUE SHOULD BE ADDRESSED BEFORE A COMPETITION FOR THE SET-ASIDE UNITS WAS HELD. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH CARRIED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.

Commissioner Acevedo returned at 10:04 p.m. and was seated on the dais.

**4) CALTRANS
FENCING AT
COCHRANE
ROAD/HIGHWAY 101**

Discussion of CalTrans response to the Planning Commission request to remove the chain link fencing along the freeway right-of-way at the City's Gateway Area at the Cochrane Road and Highway 101 interchange.

The letter of response to the City regarding the installation of chain link fences along the perimeter of the intersections at the gateways to the City from CalTrans had been

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distributed. Chair Benich said, ‘Well, they told us to pound sand.’ The letter, Chair Benich said, told the City if they wanted to change the fencing, then the City must install and maintain it. “We could recommend such action to the City Council,” he said.

Commissioner Escobar asked if there had been any discussion with the City Council regarding the matter? Do we have a feel for their willingness to include this into the CIP? [No]

Chair Benich opened the public hearing.

With none present to speak to the matter, the public hearing was closed.

Commissioner Lyle said the question to staff was: with the new development at the Cochrane interchange, the City would want a nicer entrance, but who would pay for it?

Chair Benich suggested that much of the funds for that development had come from the RDA. “I think we should address future developments at the gateways such as Cochrane and the developer at Railroad Avenue, and ask – or suggest to – the developer to put in a decorative fence. Commissioner Escobar asked, “But who maintains that fencing, then?”

Chair Benich suggested that whoever owns it would be responsible for maintenance.

Commissioner Acevedo recalled that the City has pieces of property surrounded – or at least partially – by chain link fence. “The City chose chain link because it is cheaper. If the City thought it a big deal, they would have installed decorative fencing, but they did not. Now to say to CalTrans no chain link fencing is hypocritical.”

Discussion continued, with Chair Benich stating that a good City needed detailing, and that Cochrane at 101, presents the first gateway to the City. “It comes down to what kind of City we want,” Chair Benich said.

The other Commissioners expressed concerns of the potential of having decorative fencing included in the CIP. They acknowledged that believe such a project might be ‘costly’ and were uncertain as to where the funds might come from. A brief discussion ensued regarding a project which had contained a promise of urban art but that had been minimized due to reduced funding in the actual award of the project, with unease that requirements of decorative fencing may have the same result.

Chair Benich said his intent in having this discussion was to raise the consciousness of the City Council to the issue. Commissioner Mueller reminded that the Commissioners will see the CIP at the April 24 meeting. Chair Benich said the fencing could be added to the CIP workshop.

Commissioner Lyle said if an approach was made at the ~~at~~ right time - and suggested maybe it still might not be too late – the Cochrane developer got eleven million

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dollars from the City and they could have a decorative fence. PM Rowe said such action would take an amendment to the PUD.

Commissioner Koepp-Baker said she had information that Target intends opening the new store at the Cochrane location on July 2, 2007.

Chair Benich promised to raise the level of consciousness regarding fencing during the next CIP workshop.

ANNOUNCEMENTS:

PM Rowe reminded that there would be no Planning Commission meeting on April 10, warning Commissioners to expect a heavy agenda April 24

Commissioner Davenport reminded that the Commissioners want to see comparisons of last year's projections and actual expenditures against those proposed for the new CIP, as well as year-to-date completion schedule and dollars spent.

ADJOURNMENT:

As there was no further business to come before the Commissioners at this meeting, Chair Benich adjourned the meeting at 10:15 p.m.

MINUTES PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk